

ORDER:  
motion granted.  
John Bryant, USMS

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

AMERICAN NATIONAL PROPERTY AND )  
CASUALTY COMPANY, )  
Plaintiff, ) Civil Action No. 3:08-cv-00604  
v. ) Judge Echols  
CAMPBELL INSURANCE, INC., ) Magistrate Judge Bryant  
et al., ) JURY DEMAND  
Defendants. )

**MOTION FOR LEAVE TO RESPOND TO REPLY BY CAMPBELL DEFENDANTS TO  
RESPONSE TO MOTION TO COMPEL DISCOVERY**

The plaintiff, American National Property and Casualty Company (“American National”), respectfully moves for leave to respond to the Reply [Docket No. 227] by the Campbell Defendants to American National’s Response [Docket No. 223] to the pending Motion to Compel [Docket No. 215; the “Motion”].

As grounds for this motion, American National states that the Campbell Defendants’ Reply consists entirely of an issue raised for the first time, namely that the discovery requested is purportedly relevant to American National’s claim for misappropriation of trade secrets. The Campbell Defendants did not make this argument in either their Motion or supporting memorandum and, therefore, American National has not yet had the opportunity to respond to it.

If anything, the Campbell Defendants’ Reply should be disregarded in its entirety as both the Sixth Circuit and this Court have expressly disallowed such sandbagging. See, e.g., Scottsdale Ins. Co. v. Flowers, 513 F.3d 546, 533 (6th Cir. 2008) (as a matter of both litigation fairness and procedure, issues raised for the first time in district court in replies to responses are waived); S & M Brands v. Summers, 393 F. Supp. 2d 604 (M.D. Tenn. 2005) (refusing to